

HEARING

DISCIPLINARY COMMITTEE OF THE ASSOCIATION OF CHARTERED CERTIFIED ACCOUNTANTS

REASONS FOR DECISION

In the matter of: Mr Muhammad Ismail

Heard on: Tuesday, 29 March 2022 and Thursday, 21 April 2022

Location: Remotely via Microsoft Teams

Committee: Mrs Valerie Paterson (Chair)
Mr Trevor Faulkner (Accountant)
Mrs Victoria Smith (Lay)

Legal Adviser: Ms Valerie Charbit (Legal Adviser)

**Persons present
and capacity:** Mr Benjamin Jowett (ACCA Case Presenter)
Ms Nkechi Onwuachi (Hearings Officer)

Summary: Allegations 1(a), 1(b), 2(a), 2(b) and 4 proved.
Exclusion from membership with immediate effect.
Costs payable by Mr Ismail to ACCA of £5,000
Interim Order rescinded

SERVICE OF PAPERS / PRELIMINARY APPLICATIONS

1. The Disciplinary Committee (*“the Committee”*) convened to consider four allegations against Mr Ismail. Mr Ismail attended but he was not represented.

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2. The papers before the Committee were a bundle called 'Final DC report and bundle' numbering 1-277 pages and two pseudonymisation schedules. The Committee was also provided with a Service Bundle numbering 1-18 pages and a Costs schedule numbering 1-6 pages.

ALLEGATION/BRIEF BACKGROUND

3. Mr Ismail faced the following allegations:

Mr Muhammad Ismail, at all material times an ACCA trainee

1. Submitted or caused to be submitted to ACCA on or about 30 May 2017 an ACCA Practical Experience training record which purported to confirm:
 - a) His Practical Experience Supervisor in respect of his practical experience training in the period 02 February 2012 to 01 March 2015 was Mr A when Mr A did not and /or could not supervise his practical experience training in accordance with ACCA's requirements as set out and published in ACCA's PER Guidance (the Guidance).
 - b) He had achieved:
 - Performance Objective 1: Ethics and professionalism;
 - Performance Objective 2: Stakeholder relationship management;
 - Performance Objective 3: Strategy and innovation;
 - Performance Objective 4: Governance, risk and control;
 - Performance Objective 5: Leadership and management;
2. Mr Muhammad Ismail's conduct in respect of the matters described in allegation 1 above was: -

- a) In respect of allegation 1a, dishonest, in that Mr Muhammad Ismail sought to confirm his supervisor did and could supervise his practical experience training in accordance with ACCA's requirements which he knew to be untrue.
 - b) In respect of allegation 1b dishonest, in that Mr Muhammad Ismail knew he had not achieved the performance objectives referred to in paragraph 1b above as described in the corresponding performance objective statements or at all.
 - c) In the alternative, any or all of the conduct referred to in paragraph 1 above demonstrates a failure to act with integrity.
3. In the further alternative to allegations 2a and or 2b above, such conduct was reckless in that it was in wilful disregard of ACCA's Guidance to ensure:
 - a) His Practical Experience Supervisor met the specified requirements in terms of qualification and supervision of the trainee; and /or
 - b) That the performance objective statements referred to in paragraph 1b above accurately set out how the corresponding objective had been met.
4. By reason of his conduct, Mr Muhammad Ismail is guilty of misconduct pursuant to ACCA byelaw 8(a)(i) in respect of any or all the matters set out at 1 to 3 above.
- 4 At the outset Mr Ismail had the allegations read to him and he admitted in part Allegation 1(a), in that he had caused to be submitted to ACCA on or about 30 May 2017, his ACCA Practical Experience training record. However, he did not admit that he knew Mr A did not and/or could not supervise his practical experience training in accordance with ACCA's requirements.

- 5 Mr Ismail further admitted Allegation 1(b). He denied Allegations 2(a), 2(b), 2(c), 3 (a), 3(b) and 4.
- 6 Mr Ismail became a member of ACCA on 31 July 2017. Regulation 3(a) of ACCA's Membership Regulations provides that an ACCA trainee cannot become a member of ACCA until they have completed three years of approved work experience, in accordance with ACCA's Practical Experience Requirement ("*PER*").
- 7 Mr Ismail was one of fifty-two ACCA trainees who submitted or caused to be submitted to ACCA that some or all of their practical experience training had been supervised by Mr A, including at times when Mr A was not qualified, and further in doing so submitted that one or more performance objective ("*PO*") statements that were identical, or near identical to one or more of Mr A's other trainee's PO statements or the same or similar to Mr A's own PO statements, which he included when completing his own training record in 2016.
- 8 The Committee considered the evidence of ACCA's Professional Team Manager, Mr B, set out in a statement dated 15 April 2021. The content of the statement was not challenged by Mr Ismail.
- 9 ACCA's PER is based on the International Federation of Accountants ("*IFAC*") International Education Standard 5, PER. ACCA's PER develops the professional knowledge and values, ethics and behaviours needed to become a professionally qualified accountant.
- 10 ACCA's PER has three components. The achievement of "*Essential*" and "*Technical*" POs by gaining the experience required to achieve the necessary elements for each PO, evidenced by a personal statement for each PO signed off by the trainee's Practical Experience Supervisor ("*PES*"). Secondly, 36 months' work experience in one or more accounting or finance-related roles, which is verified by a PES. And thirdly, regularly recording PER progress in the online "*MyExperience*" recording tool, which is accessed via ACCA's online portal "*myACCA*".

- 11 ACCA trainees' personal statements for each PO must be a 200 to 500-word concise explanation of how they have achieved the PO. Trainees must provide examples of tasks they have been involved with to illustrate their personal statement. Trainees' statements must be unique to their own work experience.
- 12 ACCA trainees are responsible for finding a PES who must be a qualified accountant recognised by law in the trainee's country and or a member of an IFAC body with knowledge of the trainee's work. A PES will therefore usually be a trainee's line manager, or the person to whom the trainee reports on projects or activities. A PES cannot sign off experience that a trainee has not been able to demonstrate to them in the workplace. If a PES is not a trainee's line manager, then the PES may consult with the trainee's line manager to validate their experience.
- 13 Trainees must enter the PES's details into the "*MyExperience*" recording tool and send their PES an invitation to register as their PES. Trainees cannot submit anything to their PES until the PES is registered. Guidance about ACCA's PER including trainees' responsibilities, PESs and their role, is published on ACCA's website.
- 14 Guidance about ACCA's PER including trainees' responsibilities, PESs and their role is published on ACCA's website.
- 15 Mr Ismail's PER record shows he claimed thirty-seven months of workplace experience at Company Z between 02 February 2012 and 01 March 2015.
- 16 Mr Ismail's PER record also shows he submitted nine PO statements for approval to Mr A on 30 May 2017. The PO statements were approved by Mr A on the same date.
- 17 Mr A could not have been supervising Mr Ismail during the period when Mr Ismail said he worked at Company Z because Mr A did not become an ACCA member and was not qualified to supervise trainees until after 23 September 2016, and this was after Mr Ismail had stopped working there.

- 18 ACCA sought a response from Mr Ismail on 24 January 2020, 18 February 2020 and 06 March 2020 but it received no reply from him.
- 19 On 29 January 2021 a Disciplinary Committee found the following matters proved against Mr A, that he:
1. Approved the POs and/or supporting statements of 52 ACCA trainees, including Mr Ismail, (referred to in the allegations as trainee R) when Mr A had no reasonable basis for believing they had been achieved and/or were true.
 2. Falsely represented to ACCA that he had supervised the work experience of 52 ACCA trainees, including Mr Malik (sic), in accordance with ACCA's PER;
 3. Improperly assisted 52 ACCA trainees, including Mr Malik (sic) in completing their supporting statements as evidence of their achievements of their ACCA Practical Experience performance objectives; and
 4. Improperly participated in, or been otherwise connected with, an arrangement to assist 52 ACCA trainees to draft and/or approve their supporting statements as evidence of their achievement of their ACCA Practical Experience performance objectives, when those trainees were unable or unwilling to properly obtain verification from a supervisor that they had met ACCA's Practical Experience Requirements.
- 20 ACCA's investigation also revealed that the PO statements 1, 2, 3, 4 & 5 submitted by Mr Ismail were the same as PO statements of other trainees supervised by Mr A.
- 21 Mr Ismail's PO1 statement submitted to ACCA was identical to two other trainees.
- 22 Mr Ismail's PO2 statement submitted to ACCA was identical to the statement of Mr A.

- 23 Mr Ismail's PO3 statement submitted to ACCA was identical to the statement of three other trainees.
- 24 Mr Ismail's PO4 and PO5 statements were submitted to ACCA and are identical to the statements submitted by Mr A.
- 25 Mr Ismail's PO5 statement was also identical to the statement of eight other trainees.
- 26 ACCA wrote to Mr Ismail requesting evidence that he had obtained the experience as stated in his PO statements. Mr Ismail emailed ACCA on 03 April 2021 stating:

"As you required me to provide the documents for restoration of ACCA membership, please find the attached Experience letter/ Proof of employment";

"Further to this I discussed with a friend he told me and then I read at ACCA website that other local professional accountancy body member can also be your supervisor if you don't have ACCA member as supervisor. My manager at Company Z was a member of Local accountancy professional body. But the problem is that since it's been long time that company is closed I am in no longer contact with that manager. I heard from old work colleague of mine that the manager is also working in UAE but I don't have contact with him to verify him as my supervisor for my professional experience and the performance objectives";

"Please help me restore membership without that supervisor as it's been long time, over five years plus company is closed and it's not easy to establish contact with the manger. In case it required no matter how then I will give my best try for finding him and get these things approved by him. For that I need sometime and a clear way how he can verify my experience and performance objectives i.e. what are things required by him how he will verify etc"; (sic)

“Further to this please find my attached signed statement and I didn't send to your colleagues previously. You can upload into the system for them as well”.

- 27 Mr Ismail also submitted a statement dated 03 April 2021 in which he explained that he worked at from February 2012 until March 2015 when he lost his job because the business closed due to financial difficulties. In this statement Mr Ismail recounted that he had first met Mr A through a friend at a café and he then met him again in 2017. At that meeting Mr A told him that ACCA gave the option of external supervisors to approve ACCA trainees practical experience and Mr A said that because Mr A was a member of ACCA and because Mr A had performed assignments at Company Z, Mr A could say he had reviewed Mr Ismail's work and he could help him with his PER record.
- 28 Mr Ismail also stated that he wrote each of the PO statements that can be seen in his PER record which he said he then sent to Mr A via WhatsApp so that Mr A could submit them on his behalf and approve them. Mr Ismail said he no longer had the WhatsApp messages to Mr A because he had changed his phone number and he no longer had the messages when ACCA notified him of the case at least two years later.
- 29 Mr Ismail said he also gave Mr A his personal ACCA login details. Mr Ismail stated that Mr A did suggest some edits to the PER record, but he cannot remember what they were. He states that because Mr A was already an ACCA member he presumed Mr A knew what to do and how to help him whilst abiding by ACCA's rules.
- 30 Mr Ismail submitted a letter from the person who he said was the Chief Executive Officer at Company Z, that confirmed the dates he worked there. The letter was dated 09 March 2015 which confirmed that Mr Ismail had worked for the company between 02 February 2012 to 01 March 2015, it was signed by Mr X.
- 31 Mr Ismail gave evidence to the Committee stating again that he relied on Mr A to lead him through the process of ACCA membership regarding his PER because when he met Mr A again in 2017, he was already an ACCA member.

Mr Ismail told the Committee that he sent a draft of the written PO statements to Mr A using WhatsApp. He said he also provided his login details to Mr A who then submitted the PER record to ACCA on behalf of Mr Ismail. Mr Ismail told the Committee that he first realised that the PO statements were untrue during this Disciplinary hearing when he read them. He admitted that what was stated in the PO statements was untrue.

- 32 Mr Ismail also stated that ACCA's website at the time his PER record was submitted was too difficult to access both in terms of its content and in terms of internet connectivity in Pakistan at that time. Mr Ismail explained this was the reason that he relied on Mr A because he did not have any guidance on how to complete the PER. Mr Ismail also said that there was no reason for him not to honestly set out his experience because he had gained the necessary experience in his work at Company Z. Mr Ismail offered to have his direct supervisor verify his experience at that time so he could resubmit an accurate PER record although he did not explain why he had not done that at the time.
- 33 Mr Ismail said Mr A was performing consultancy services for Company Z and therefore he believed at the time that Mr A was a suitable person to assist him with his PER record. He said he did not check what Mr A had submitted on his behalf. Mr Ismail accepted that in relation to PO19 he had not done any audit work at all and therefore the content of this PO was not true because he had never worked in an audit role. He further accepted that he should have done more to properly complete his PER record; however, he did not accept that by not checking the PER record he had been reckless because ACCA did not provide guidance on how the PER could be completed at that time. He said that any failure by him was due to his lack of knowledge rather than any dishonesty or lack of integrity.

DECISION ON FACTS/ALLEGATIONS AND REASONS

- 34 The Committee carefully considered all of the evidence and the submissions made by Mr Jowett and Mr Ismail. The Committee also took into account the written responses and oral evidence of Mr Ismail.

35 It accepted the advice of the Legal Adviser. The Committee noted that it was for ACCA to prove its case on the balance of probabilities.

Allegation 1(a)

36 The Committee noted that Mr Ismail accepted that he caused to be submitted his PER record which purported to confirm that his supervisor did and could supervise his practical experience training in accordance with ACCA's requirements which he accepted was untrue, but he said he did not know this was untrue at the time he arranged for Mr A to help him.

37 The Committee carefully considered the account Mr Ismail gave about how he came to be submitting his PER record and the role he said Mr A played in doing so. It noted that Mr Ismail's account was that he had sent via WhatsApp the words which formed part of his PER record for nine separate PO statements i.e. approximately 2250 words. The Committee decided that it was unlikely that Mr Ismail would have drafted a different set of PO statements and not checked what was submitted and it decided it was also unlikely that Mr Ismail would have supplied his login details to Mr A for the submission of those POs without checking what Mr A was submitting on his behalf.

38 The Committee noted that Mr B's statement referred to ACCA's PER trainee guide published in October 2007 (Exhibit SB2) which has been in continuous publication since then which Mr Ismail could have referred to. Further, in 2012, ACCA's PER trainee guide was published (Exhibit SB3), and in 2016 ACCA's PER was revised again and a new version of the "My Experience recording tool was introduced. The Committee therefore concluded that there was sufficient information available to Mr Ismail which he could have referred to about how to submit his PER record and how to meet the requirements of supervision.

39 The Committee did not accept Mr Ismail's account that he only realised during the hearing for the first time that the PO's statements which had been submitted on his behalf were untrue. It found his account regarding the circumstances of

how the PO's were submitted on his behalf by Mr A highly unlikely when considering the detail of it.

- 40 The Committee concluded that at the time that Mr Ismail's PER record was submitted that Mr Ismail must have realised that Mr A was unsuitable as a supervisor because Mr A had qualified after Mr Ismail had finished working at Company Z. Mr Ismail therefore must have known that Mr A did not or could not supervise him in accordance with ACCA's requirements because he had only become an ACCA member after both of them were no longer working there. The Committee did not accept Mr Ismail's account that he did not have the knowledge to realise this was untrue or that he relied on what Mr A told him only because it was implausible.
- 41 The Committee noted that completion of the PER was an essential part of the ACCA qualification process prior to applying to become an ACCA member and it was not persuaded by Mr Ismail's account that he had given so little or no thought as to how he would achieve the PER.
- 42 Accordingly, the Committee found Allegation 1(a) proved.

Allegation 1(b)

- 43 The Committee relied on Mr Ismail's admissions that the contents of each of the PO statements that were submitted to ACCA were in fact untrue. It therefore found this allegation proved on the basis of the admissions made by Mr Ismail in accordance with Regulation 12(3) of the CDR.

Allegation 2(a)

- 44 The Committee considered whether Mr Ismail's actions in respect of Allegation 1(a) were dishonest. It was satisfied that Mr Ismail must have realised that Mr A was unsuitable as a supervisor since Mr A's date of admission as a member to ACCA was after Mr Ismail and Mr A had both worked at Company Z. The circumstances which Mr Ismail outlined regarding how his PER record was submitted to ACCA was not in the Committee's view credible and was very

unlikely. The Committee was not persuaded that Mr A had substituted a PER record which Mr Ismail had never seen. It decided that since Mr A was only able to be a supervisor after both Mr A and Mr Ismail had finished working at Company Z, Mr Ismail must have realised that Mr A was not a suitable supervisor because he would not have been overseeing his work when he was an ACCA member.

45 The Committee therefore did not accept Mr Ismail's account because it did not consider that Mr Ismail could have been so naïve. Mr Ismail's account that he relied on Mr A for all advice for the PER, that he did no research on what was required himself and that he did not read the PO statements submitted to ACCA were not credible or likely to have happened. The Committee therefore concluded that Mr Ismail's submission of his PER record with Mr A as his supervisor was dishonest.

46 It therefore found Allegation 2(a) proved.

Allegation 2(b)

47 Since Mr Ismail admitted that each of the PO statements submitted was untrue the only issue for the Committee to decide was whether Mr Ismail knew that he had not achieved those PO statements at the time they were submitted. It did not accept that Mr Ismail would have completely relied on Mr A on such important matters without checking anything himself. Furthermore, it noted that in Mr Ismail's written statement he had said he had drafted the PO statements, yet he told the Committee that the first time he realised the PO statements that had been submitted were not the same as the PO statements he had drafted, and that they were untrue, was during the hearing. Mr Ismail therefore had not previously checked the PO statements to see if in fact the PO statements submitted were the ones he had apparently drafted despite having notice of these allegations for a long period. The Committee therefore determined that Mr Ismail's account that he did not look at what was submitted and that he did not check the PO statements submitted was highly unlikely to be true.

- 48 The Committee further concluded that it was unlikely that Mr Ismail would have sent nine 250-word PO's without checking what was actually submitted on his behalf. It also considered that Mr Ismail's account that he gave a consultant (Mr A) and someone who had not directly supervised him the authority to submit the PER record was unlikely. Furthermore, Mr Ismail's account that he gave Mr A his login details to submit the PER record without checking what Mr A actually submitted also indicated in the Committee's view that Mr Ismail was willing to act dishonestly.
- 49 Accordingly, the Committee found Allegation 2(b) proved.
- 50 Since Allegation 2(c), Allegation 3(a) and Allegation 3(b) were alternative allegations to Allegations 2(a) and 2(b) the Committee did not go on to consider them.

Allegation 4

- 51 In the Committee's judgement, the facts it had found proved which included dishonesty at the stage of applying to ACCA for membership was a serious matter. It therefore found that such behaviour as found proved Allegations 1(a), 1(b), 2(a) and 2(b) amounted to misconduct.

SANCTION AND REASONS

- 52 In reaching its decision on sanction, the Committee took into account the submissions made by Mr Jowett and Mr Ismail. The Committee referred to the Guidance for Disciplinary Sanctions (GDS) issued by ACCA and in particular it noted that the purpose of sanctions was not to punish Mr Ismail but was to protect the public interest, maintain confidence in the profession and to maintain proper standards of conduct and to uphold the reputation of the profession.
- 53 Mr Ismail told the Committee that he was working in his father's business and that he had worked on and off on some assignments, but he did not supply any further details. He said that he would struggle to pay any costs because of the

effect of Covid on his father's business. He said he had not applied for any accountancy jobs because of these proceedings. He confirmed that he had two other accountancy qualifications which would only be suitable if he worked in Canada or the UAE.

- 54 The Committee found the following aggravating features: that Mr Ismail had been dishonest when applying for membership to ACCA, that he had colluded with Mr A thereby undermining public confidence and the integrity of ACCA's membership process and that Mr Ismail did not appear to express any remorse or genuine regret about what had happened, and he did not understand the seriousness of what had taken place.
- 55 The Committee found that the fact Mr Ismail had no previous disciplinary findings against him was a mitigating factor. Mr Ismail had also provided a statement to ACCA for Mr A's disciplinary hearing.
- 56 The Committee took these factors into account when deciding upon the appropriate sanction.
- 57 In order to decide upon a proportionate sanction, the Committee considered the least severe sanctions first of all. It decided that the sanctions of 'no order' or 'admonishment' were not sufficient for a case of dishonesty.
- 58 The Committee went on to consider the sanctions of 'reprimand' or 'severe reprimand'. However, it noted that GDS stated such sanctions were suitable if the member had proper insight into their failings or a genuine expression of regret and where there was no continuing risk to the public; none of which applied to Mr Ismail. The Committee also decided that the dishonesty and misconduct were so serious that even a sanction of a severe reprimand would not reflect the seriousness of the matters it had found proved.
- 59 The Committee noted that the GDS provides specific guidance on the approach to be taken in cases of dishonesty, which is said to be regarded as a particularly serious matter, even when it does not result in direct harm and/or loss, or is related to matters outside the professional sphere, because it undermines trust

and confidence in the profession. The guidance states that the courts have consistently supported the approach to exclude members from their professions where there has been a lack of probity and honesty and that only in exceptional circumstances should a finding of dishonesty result in a sanction other than striking off. The guidance also states that the public is entitled to expect a high degree of probity from a professional who has undertaken to abide by a code of ethics. The reputation of ACCA and the accountancy profession is built upon the public being able to rely on a member to do the right thing in difficult circumstances. *“It is a cornerstone of the public value which an accountant brings.”*

- 60 The Committee decided that there was no exceptional mitigation that would allow for a lesser sanction than exclusion from membership. However, it did not consider that any additional orders under Regulation 13 were necessary having taken into account all the aggravating and mitigating factors before the panel.
- 61 The Committee concluded that the appropriate sanction was one of exclusion from membership of ACCA. It found the misconduct found proved was not compatible with continued membership of ACCA particularly since it went to the heart of Mr Ismail’s application for membership of ACCA. His submission of false POs to satisfy his PER record was behaviour which was fundamentally incompatible with being a member of ACCA and undermined integrity in ACCA’s membership process.
- 62 The Committee also considered that a failure to exclude a member who had behaved in this way would seriously undermine public confidence in the profession and in ACCA as its regulator. The public needs to know it can rely on the integrity, ability and professionalism of those who are members of ACCA. In order to maintain public confidence and uphold proper standards in the profession, it was necessary to send out a clear message that this sort of behaviour is unacceptable.
- 63 The Committee therefore ordered that Mr Ismail be excluded from membership.

COSTS AND REASONS

- 64 The Committee was provided with a detailed costs schedule setting out the costs incurred by ACCA over the investigation and disciplinary process for Mr Ismail. These costs totalled £8,381.
- 65 The Committee decided that ACCA was entitled to be awarded costs, but it took into account the evidence given by Mr Ismail that he did not have sufficient means to pay the costs.
- 66 The Committee decided that it would therefore exercise its discretion to reduce the level of costs to be recovered to £5,000 payable to ACCA by Mr Ismail. It did not reduce the costs any further because Mr Ismail gave extremely limited details about his means to pay.
- 67 The Committee therefore considered it was reasonable and proportionate to award costs to ACCA payable by Mr Ismail in the reduced amount of £5,000.

EFFECTIVE DATE OF ORDER

- 68 Taking into account all the circumstances, including that Mr Ismail had achieved membership of ACCA by acting dishonestly, the Committee decided that it was in the interests of the public for the order for exclusion to take immediate effect.
- 69 The Committee also revoked the interim suspension order that had been imposed.

Mrs Valerie Paterson
Chair
21 April 2022